IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.1184 OF 2006

1. Parshuram Vithal Choudhary,
Age 55 years

2. Mrs. Shobha Parshuram
Choudhary

Both residing in room No.1 (from front side), Supugade Chawl (Ganga Niwas), Munshi Mahal, P.N. Road, Bhandup (West), Mumbai-400 078.

3. Baburao Laxman Shere

4. Mrs. Sushma Baburao Shere

Both residing at Room No.2 (from front side), Supugade Chawl (Ganga Niwas), Munshi Mahal, P.N. Road, Bhandup (West), Mumbai-400 078.

5. Bhau Sahadev Thakur

6. Bhikaji Sahadev Thakur

7. Mrs. Bhavika Bhau Thakur

All residing at Room No.3 (Back side), Supugade Chawl (Ganga Niwas), Munshi Mahal, P.N. Road, Bhandup (West), Mumbai-400 078.

8. Mohan Bhanu Wayarkar

9. Rajani Mohan Wayarkar

10. Sonali Mohan Wayarkar

All residing at Room No.4 (Back side), Supugade Chawl (Ganga Niwas), Munshi Mahal, P.N. Road, Bhandup (West), Mumbai-400 078.

11. Virendra Maurya

12. Hublal Yadav

13. Santosh Ashok Galve

14. Asha Narayan Thakre

15. Rajaram Mistry

16. Sher Bahadur C. Singh

All residents of Sarju Yadav
Chawl, Munshi Mahal, P.N. Road,
Bhandup (West), Mumbai-78. .... Petitioners

- Versus -

1. Smt. Subhadra Munshi Daya-
   shankarlal, aged 51 years,
   Occ: Housewife

2. Smt. Sushila Munshi Daya-
   shankarlal, aged 48 years,
   Occ: Housewife

3. Mrs. Poonam Sanjay Shrivastave
   age: 32 years, Occ: Housewife

4. Mrs. Kiran Mohan Sahai,
   aged 29 years, Occ: Housewife

5. Miss Neelam Munshi Daya-
   shankarlal, age 26 years,
   Occ: Unemployed

6. Miss Mrinalini Munshi Daya-
   shankarlal, age 25,
   Occ: Unemployed

7. Sudhanshu Munshi Daya-
   shankarlal, age 23 years,
   Occ: Unemployed

8. Ashutosh Munshi Daya-
   shankarlal, age 23 years,
   Occ: Unemployed

9. Miss Rashmi Munshi Daya-
   shankarlal, age 21 years,
   Occ: Unemployed

All Hindus, adults, Indian
Inhabitant residing at Krantikunj,
Munshi Mahal, Pratap Nagar Road,
Bhandup (West), Mumbai-400 078.

10. Dy. Collector & Competent
Authority, having office at
Topiwala College, Mulund
(West), Bombay-400 080. .... Respondents

Shri G.S. Bhat, Advocate, for the Petitioners.

Shri R.D. Misra, Advocate, for the Respondent Nos.1 to 9.

Shri A.B. Palekar, Asst. Government Pleader, for the Respondent No.10.

**CORAM:** R.M.S. KHANDEPARKAR, J.

**DATED:** OCTOBER 09, 2006

**ORAL JUDGMENT:**

1. Heard. Rule. By consent, rule made returnable forthwith.

2. The petitioners challenge the impugned order on various grounds. However, it is not necessary to deal with all those grounds and suffice to refer to only one ground, namely, disposal of the appeal without complying with the requirements of Section 4(4) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, hereinafter called as "the said Act".

3. The records undisputedly disclose that after the filing of the appeal before the Appellate Authority, the concerned authority had not published public notice in terms of Section 4(4) of the said Act and without

publishing the such notice, the appeal was allowed and the matter was remanded. Though it is sought to be contended on behalf of the respondents that even the order which was challenged in the appeal was passed without giving proper opportunity to the respondents to put forth their contention in the matter before the remand of the matter, the Appellate Authority totally failed to comply with the mandatory requirement of Section 4(4) of the said Act. The learned single Judge of this Court in **Satish B. Kadhe and others v. Maharashtra Slum Areas (Improvement, Clearance and Re-development) Tribunal, Bombay,** reported in 1997 (1) Mh.L.J. 107 has clearly held that the provisions of Section 4(4) are mandatory in nature and non-compliance thereof would vitiate the order of the Appellate Court. Considering the said ruling in **Satish Kadhe's** case (supra) and considering the facts of the case wherein it is apparent that the Tribunal did not comply with the mandatory requirement of Section 4(4) of the said Act, the impugned order cannot be sustained and is liable to be set aside and the matter remanded to the Tribunal to hear the appeal after complying with the provisions of law under Section 4(4) of the said Act.

4. In the result, therefore, the impugned order is hereby set aside and the matter is remanded to the Tribunal to dispose of the appeal after complying with

the requirements of Section 4 of the said Act. Needless to say that the matter should be disposed of as expeditiously as possible and in any case on or before 30-4-2007. The rule is made absolute accordingly with no order as to costs.

(R.M.S. Khandeparkar, J.)

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